

1       AN ACT Relating to establishing transparent school opening  
2 metrics tied to COVID-19 prevalence; amending RCW 43.06.220,  
3 43.70.130, 43.20.050, and 70.05.070; adding a new section to chapter  
4 28A.630 RCW; creating a new section; providing a contingent  
5 expiration date; and declaring an emergency.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7       NEW SECTION.     **Sec. 1.**     (1) The legislature acknowledges that  
8 school districts and charter schools are faced with challenging  
9 decisions regarding how to operate their schools during COVID-19 and  
10 whether they should offer in-person learning, distance learning, or  
11 hybrid or rotating schedules. The legislature recognizes that full-  
12 time, distance learning presents many challenges and hardships to  
13 students and families.

14       (2) The legislature intends to establish clear school opening  
15 metrics based on both the positivity standard and the number of cases  
16 within counties, so these decisions are transparent and uniform  
17 throughout the state of Washington.

18       NEW SECTION.     **Sec. 2.**     A new section is added to chapter 28A.630  
19 RCW to read as follows:

1 (1) When the governor proclaims a state of emergency under  
2 chapter 43.06 RCW in response to COVID-19, school districts must use  
3 the metrics in this section to determine the education modality for  
4 the schools by county.

5 (a) School districts that meet any of the following standards  
6 must offer in-person learning:

7 (i) School districts in counties below a five percent positivity  
8 standard must offer in-person learning to students in grades  
9 kindergarten through 12;

10 (ii) School districts in counties with a COVID-19 case rate of  
11 below 200 cases per 100,000 over 14 days must offer in-person  
12 learning to students in grades kindergarten through 12; or

13 (iii) School districts in counties with a COVID-19 case rate of  
14 below 350 cases per 100,000 over 14 days must offer in-person  
15 learning to students in grades kindergarten through eighth grade.

16 (b) School districts in counties above the standards in (a) of  
17 this subsection may choose the education modality for their students.

18 (2) The in-person learning requirement in subsection (1)(a) of  
19 this section is met if school districts offer hybrid or rotating  
20 schedules with in-person learning and distance learning.

21 (3) For students in school districts offering in-person learning,  
22 school districts must offer full-time distance learning as an option  
23 to students during the duration of the state of emergency under  
24 proclamation 20-05 and any subsequent state of emergency pertaining  
25 to COVID-19 in accordance with RCW 43.06.210.

26 (4) If a school district is located in more than one county, a  
27 school district must determine the average positivity standard and  
28 average number of cases per 100,000 of all the counties in which it  
29 is located to determine the education modality under subsection (1)  
30 of this section.

31 (5) If there is an outbreak of COVID-19 at a particular school, a  
32 school district and local health officer, in accordance with other  
33 state laws, must take all appropriate actions deemed necessary to  
34 control or eliminate the spread of COVID-19 within the affected  
35 school including:

36 (a) Closing part or all of the affected school;

37 (b) Canceling activities or functions at the affected school; and

38 (c) Excluding from the affected school any students, staff, and  
39 volunteers who are infectious, or exposed and susceptible to the  
40 disease.

(6) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Education modality" means the type of setting to deliver education services including, but not limited to, in-person learning, distance learning, and hybrid or rotating schedules with in-person learning and distance learning.

(b) "Outbreak" means the school meets the following criteria: (i) Two or more cases of laboratory positive COVID-19 among students or staff; (ii) the cases have symptom onsets within a fourteen-day period of each other; (iii) plausible epidemiological-linkage in the school; and (iv) no other known epidemiological-linkage outside of the school.

(c) "Positivity standard" means the percent of individuals testing positive for COVID-19 as reported by the department of health or local health departments. It must be calculated by comparing the number of individuals testing positive over the past week to the total number of tests during that week.

(7) This section is a state health requirement under RCW 28A.710.040 and applies to charter schools established in accordance with chapter 28A.710 RCW.

**Sec. 3.** RCW 43.06.220 and 2019 c 472 s 2 are each amended to read as follows:

(1) The governor after proclaiming a state of emergency and prior to terminating such, may, in the area described by the proclamation issue an order prohibiting:

(a) Any person being on the public streets, or in the public parks, or at any other public place during the hours declared by the governor to be a period of curfew;

(b) Any number of persons, as designated by the governor, from assembling or gathering on the public streets, parks, or other open areas of this state, either public or private;

(c) The manufacture, transfer, use, possession or transportation of a molotov cocktail or any other device, instrument or object designed to explode or produce uncontained combustion;

(d) The transporting, possessing or using of gasoline, kerosene, or combustible, flammable, or explosive liquids or materials in a glass or uncapped container of any kind except in connection with the normal operation of motor vehicles, normal home use or legitimate commercial use;

- 1 (e) The sale, purchase or dispensing of alcoholic beverages;
- 2 (f) The sale, purchase or dispensing of other commodities or
- 3 goods, as he or she reasonably believes should be prohibited to help
- 4 preserve and maintain life, health, property or the public peace;
- 5 (g) The use of certain streets, highways or public ways by the
- 6 public; and
- 7 (h) Such other activities as he or she reasonably believes should
- 8 be prohibited to help preserve and maintain life, health, property or
- 9 the public peace.

10 (2) The governor after proclaiming a state of emergency and prior

11 to terminating such may, in the area described by the proclamation,

12 issue an order or orders concerning waiver or suspension of statutory

13 obligations or limitations in the following areas:

- 14 (a) Liability for participation in interlocal agreements;
- 15 (b) Inspection fees owed to the department of labor and
- 16 industries;
- 17 (c) Application of the family emergency assistance program;
- 18 (d) Regulations, tariffs, and notice requirements under the
- 19 jurisdiction of the utilities and transportation commission;
- 20 (e) Application of tax due dates and penalties relating to
- 21 collection of taxes;
- 22 (f) Permits for industrial, business, or medical uses of alcohol;
- 23 and
- 24 (g) Such other statutory and regulatory obligations or
- 25 limitations prescribing the procedures for conduct of state business,
- 26 or the orders, rules, or regulations of any state agency if strict
- 27 compliance with the provision of any statute, order, rule, or
- 28 regulation would in any way prevent, hinder, or delay necessary
- 29 action in coping with the emergency, unless (i) authority to waive or
- 30 suspend a specific statutory or regulatory obligation or limitation
- 31 has been expressly granted to another statewide elected official,
- 32 (ii) the waiver or suspension would conflict with federal
- 33 requirements that are a prescribed condition to the allocation of
- 34 federal funds to the state, or (iii) the waiver or suspension would
- 35 conflict with the rights, under the First Amendment, of freedom of
- 36 speech or of the people to peaceably assemble. The governor shall
- 37 give as much notice as practical to legislative leadership and
- 38 impacted local governments when issuing orders under this subsection
- 39 (2)(g).

1 (3) In imposing the restrictions provided for by RCW 43.06.010,  
2 and 43.06.200 through 43.06.270, the governor may impose them for  
3 such times, upon such conditions, with such exceptions and in such  
4 areas of this state he or she from time to time deems necessary.

5 (4) No order or orders concerning waiver or suspension of  
6 statutory obligations or limitations under subsection (2) of this  
7 section may continue for longer than thirty days unless extended by  
8 the legislature through concurrent resolution. If the legislature is  
9 not in session, the waiver or suspension of statutory obligations or  
10 limitations may be extended in writing by the leadership of the  
11 senate and the house of representatives until the legislature can  
12 extend the waiver or suspension by concurrent resolution. For  
13 purposes of this section, "leadership of the senate and the house of  
14 representatives" means the majority and minority leaders of the  
15 senate and the speaker and the minority leader of the house of  
16 representatives.

17 (5) No order or orders issued under this section may supersede,  
18 waive, or suspend statutory and regulatory obligations or limitations  
19 concerning education modalities during COVID-19 set forth in section  
20 2 of this act.

21 (6) Any person willfully violating any provision of an order  
22 issued by the governor under this section is guilty of a gross  
23 misdemeanor.

24 **Sec. 4.** RCW 43.70.130 and 1990 c 132 s 2 are each amended to  
25 read as follows:

26 The secretary of health shall:

27 (1) Exercise all the powers and perform all the duties prescribed  
28 by law with respect to public health and vital statistics;

29 (2) Investigate and study factors relating to the preservation,  
30 promotion, and improvement of the health of the people, the causes of  
31 morbidity and mortality, and the effects of the environment and other  
32 conditions upon the public health, and report the findings to the  
33 state board of health for such action as the board determines is  
34 necessary;

35 (3) Strictly enforce all laws for the protection of the public  
36 health and the improvement of sanitary conditions in the state, and  
37 all rules, regulations, and orders of the state board of health;

38 (4) Enforce the public health laws of the state and the rules and  
39 regulations promulgated by the department or the board of health in

1 local matters, when in its opinion an emergency exists and the local  
2 board of health has failed to act with sufficient promptness or  
3 efficiency, or is unable for reasons beyond its control to act, or  
4 when no local board has been established, and all expenses so  
5 incurred shall be paid upon demand of the secretary of the department  
6 of health by the local health department for which such services are  
7 rendered, out of moneys accruing to the credit of the municipality or  
8 the local health department in the current expense fund of the  
9 county;

10 (5) Investigate outbreaks and epidemics of disease that may occur  
11 and advise local health officers as to measures to be taken to  
12 prevent and control the same;

13 (6) Exercise general supervision over the work of all local  
14 health departments and establish uniform reporting systems by local  
15 health officers to the state department of health;

16 (7) Have the same authority as local health officers, except that  
17 the secretary shall not exercise such authority unless the local  
18 health officer fails or is unable to do so, or when in an emergency  
19 the safety of the public health demands it, or by agreement with the  
20 local health officer or local board of health;

21 (8) Cause to be made from time to time, personal health and  
22 sanitation inspections at state owned or contracted institutions and  
23 facilities to determine compliance with sanitary and health care  
24 standards as adopted by the department, and require the governing  
25 authorities thereof to take such action as will conserve the health  
26 of all persons connected therewith, and report the findings to the  
27 governor;

28 (9) Review and approve plans for public water system design,  
29 engineering, operation, maintenance, financing, and emergency  
30 response, as required under state board of health rules;

31 (10) Take such measures as the secretary deems necessary in order  
32 to promote the public health, to establish or participate in the  
33 establishment of health educational or training activities, and to  
34 provide funds for and to authorize the attendance and participation  
35 in such activities of employees of the state or local health  
36 departments and other individuals engaged in programs related to or  
37 part of the public health programs of the local health departments or  
38 the state department of health. The secretary is also authorized to  
39 accept any funds from the federal government or any public or private  
40 agency made available for health education training purposes and to

conform with such requirements as are necessary in order to receive such funds; ~~((and))~~

(11) Establish and maintain laboratory facilities and services as are necessary to carry out the responsibilities of the department; and

(12) Act in accordance with section 2 of this act concerning education modalities during COVID-19.

**Sec. 5.** RCW 43.20.050 and 2011 c 27 s 1 are each amended to read as follows:

(1) The state board of health shall provide a forum for the development of public health policy in Washington state. It is authorized to recommend to the secretary means for obtaining appropriate citizen and professional involvement in all public health policy formulation and other matters related to the powers and duties of the department. It is further empowered to hold hearings and explore ways to improve the health status of the citizenry.

In fulfilling its responsibilities under this subsection, the state board may create ad hoc committees or other such committees of limited duration as necessary.

(2) In order to protect public health, the state board of health shall:

(a) Adopt rules for group A public water systems, as defined in RCW ~~((70.119A.020))~~ 70A.125.010, necessary to assure safe and reliable public drinking water and to protect the public health. Such rules shall establish requirements regarding:

(i) The design and construction of public water system facilities, including proper sizing of pipes and storage for the number and type of customers;

(ii) Drinking water quality standards, monitoring requirements, and laboratory certification requirements;

(iii) Public water system management and reporting requirements;

(iv) Public water system planning and emergency response requirements;

(v) Public water system operation and maintenance requirements;

(vi) Water quality, reliability, and management of existing but inadequate public water systems; and

(vii) Quality standards for the source or supply, or both source and supply, of water for bottled water plants;

1 (b) Adopt rules as necessary for group B public water systems, as  
2 defined in RCW ((70.119A.020)) 70A.125.010. The rules shall, at a  
3 minimum, establish requirements regarding the initial design and  
4 construction of a public water system. The state board of health  
5 rules may waive some or all requirements for group B public water  
6 systems with fewer than five connections;

7 (c) Adopt rules and standards for prevention, control, and  
8 abatement of health hazards and nuisances related to the disposal of  
9 human and animal excreta and animal remains;

10 (d) Adopt rules controlling public health related to  
11 environmental conditions including but not limited to heating,  
12 lighting, ventilation, sanitary facilities, and cleanliness in public  
13 facilities including but not limited to food service establishments,  
14 schools, recreational facilities, and transient accommodations;

15 (e) Adopt rules for the imposition and use of isolation and  
16 quarantine;

17 (f) Adopt rules in accordance with section 2 of this act  
18 concerning education modalities during COVID-19, for the prevention  
19 and control of infectious and noninfectious diseases, including food  
20 and vector borne illness, and rules governing the receipt and  
21 conveyance of remains of deceased persons, and such other sanitary  
22 matters as may best be controlled by universal rule; and

23 (g) Adopt rules for accessing existing databases for the purposes  
24 of performing health related research.

25 (3) The state board shall adopt rules for the design,  
26 construction, installation, operation, and maintenance of those  
27 on-site sewage systems with design flows of less than three thousand  
28 five hundred gallons per day.

29 (4) The state board may delegate any of its rule-adopting  
30 authority to the secretary and rescind such delegated authority.

31 (5) All local boards of health, health authorities and officials,  
32 officers of state institutions, police officers, sheriffs,  
33 constables, and all other officers and employees of the state, or any  
34 county, city, or township thereof, shall enforce all rules adopted by  
35 the state board of health. In the event of failure or refusal on the  
36 part of any member of such boards or any other official or person  
37 mentioned in this section to so act, he or she shall be subject to a  
38 fine of not less than fifty dollars, upon first conviction, and not  
39 less than one hundred dollars upon second conviction.



(6) The state board may advise the secretary on health policy issues pertaining to the department of health and the state.

**Sec. 6.** RCW 70.05.070 and 2020 c 20 s 1066 are each amended to read as follows:

The local health officer, acting under the direction of the local board of health or under direction of the administrative officer appointed under RCW 70.05.040 or 70.05.035, if any, shall:

(1) Enforce the public health statutes of the state, rules of the state board of health and the secretary of health, and all local health rules, regulations and ordinances within his or her jurisdiction including imposition of penalties authorized under RCW 70A.125.030 and 70A.105.120, the confidentiality provisions in RCW 70.02.220 and rules adopted to implement those provisions, and filing of actions authorized by RCW 43.70.190;

(2) Take such action as is necessary to maintain health and sanitation supervision over the territory within his or her jurisdiction;

(3) Control and prevent the spread of any dangerous, contagious or infectious diseases that may occur within his or her jurisdiction;

(4) Inform the public as to the causes, nature, and prevention of disease and disability and the preservation, promotion and improvement of health within his or her jurisdiction;

(5) Prevent, control or abate nuisances which are detrimental to the public health;

(6) Attend all conferences called by the secretary of health or his or her authorized representative;

(7) Collect such fees as are established by the state board of health or the local board of health for the issuance or renewal of licenses or permits or such other fees as may be authorized by law or by the rules of the state board of health;

(8) Inspect, as necessary, expansion or modification of existing public water systems, and the construction of new public water systems, to assure that the expansion, modification, or construction conforms to system design and plans;

(9) Take such measures as he or she deems necessary in order to promote the public health, to participate in the establishment of health educational or training activities, and to authorize the attendance of employees of the local health department or individuals

1 engaged in community health programs related to or part of the  
2 programs of the local health department; and

3 (10) Act in accordance with section 2 of this act concerning  
4 education modalities during COVID-19.

5 NEW SECTION. **Sec. 7.** This act is necessary for the immediate  
6 preservation of the public peace, health, or safety, or support of  
7 the state government and its existing public institutions, and takes  
8 effect immediately.

9 NEW SECTION. **Sec. 8.** (1) This act expires upon the termination  
10 of the state of emergency under proclamation 20-05 and any subsequent  
11 state of emergency issued pertaining to COVID-19 in accordance with  
12 RCW 43.06.210.

13 (2) The governor shall provide written notice of the termination  
14 date of the state of emergency under proclamation 20-05 and any  
15 subsequent state of emergency issued pertaining to COVID-19 to  
16 affected parties, the chief clerk of the house of representatives,  
17 the secretary of the senate, the office of the code reviser, and  
18 others as deemed appropriate by the governor.

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